REMARKS

This is a full and timely response to the final Official Action mailed **July 13, 2006**. Reconsideration of the application in light of the following remarks is respectfully requested.

Claim Status:

Claims 1 and 2 have been cancelled by the present paper without prejudice or disclaimer. Consequently, following entry of this amendment, claims 3-36 are pending for further action.

Allowable Subject Matter:

In the recent final Office Action, the Examiner has allowed claims 8-17 and 26-30. Additionally, claims 3-7, 9-12, 19-25 and 32-36 are indicated as containing allowable subject matter and would be held allowable if rewritten into independent form.

Applicant wishes to thank the Examiner for the allowance of claims 8-17 and 26-30 and the further finding of allowable subject matter in claims 3-7, 9-12, 19-25 and 32-36.

Applicant agrees with the Examiner's conclusions regarding patentability, without necessarily agreeing with or acquiescing in the Examiner's reasoning. In particular, Applicant believes that the claims are allowable because the prior art fails to teach, anticipate or render obvious the invention as claimed, independent of how the claims might be paraphrased.

In accordance with this finding of allowable subject matter, claims 3 and 4 have been amended herein and each rewritten into independent form. Therefore, following entry of this amendment, claims 3 and 4, and any claims that depend therefrom, should be in clear condition for allowance based on the Examiner's finding of allowable subject matter in the final Office Action.

Entry and consideration of this amendment are proper under 37 C.F.R. § 1.116 for at least the following reasons. The present amendment makes only those changes necessary to place claims 3 and 4, and their dependent claims, in condition for allowance as indicated by the Examiner. The amendment does not raise new issues requiring further search or consideration. Therefore, entry of the present amendment is proper under 37 C.F.R. § 116 and is hereby requested.

Prior Art:

With regard to the prior art, claims 1, 2, 18 and 31 were rejected as anticipated under 35 U.S.C. § 102 by U.S. Patent No. 6,538,748 to Tucker et al. ("Tucker"). This rejection is moot as to claims 1 and 2 which are cancelled by the present paper. With regard to claims 18 and 31, however, this rejection is respectfully traversed for at least the following reasons.

Independent claim 18 recites:

> A method of calibrating a diffractive light device (DLD), comprising:
> placing first and second opposing plates in a separated position defined by an actual gap distance;
> directing light onto said DLD device to modulate that light;
> *converting modulated light to an assumed gap value;*
> *comparing said assumed gap value to a designer-specified gap value*; and
> adjusting said assumed gap distance by a distance proportional to a difference between said assumed gap value and said designer-specified gap value.

(emphasis added).

In contrast, Tucker clearly fails to teach or suggest a method that includes "converting modulated light to an assumed gap *value*." Applicant notes that, in this context, "value" is defined as "a numerical quantity that is assigned or is determined by calculation or measurement." (*See* Merriam-Webster On-Line Dictionary, http://www.m-w.com).

In contrast, the Tucker system never produces a *value* for the gap between opposing plates of the optical device. Tucker further fails to teach or suggest "comparing said assumed gap *value* to a designer-specified gap *value*." (Emphasis added).

With reference to Tucker's Fig. 8, Tucker teaches a system in which a servo light signal from an optical device (360) is mixed with a reference laser (371). Beats between the frequencies of the two light sources are then counted by a counter (374) and a voltage correction is accordingly determined by a controller (375). (*See* Tucker, col. 5, line 51 to col. 6, line 12).

The final Office Action holds that the reference laser (371) taught by Tucker and its wavelength *represent* a designer specified gap value. (Action of 7/13/06, p. 3). While this may be true, the reference laser and its wavelength only "represent" a designer specified gap value. In making this argument, the final Office Action implicitly recognizes that no actual designer-specified gap value is used by the Tucker system. Nor does the Tucker system use any actual measured or "assumed" gap value.

Tucker does not teach or suggest "converting modulated light to an assumed gap value" as claimed. Tucker does not teach or suggest "comparing said assumed gap value to a designer-specified gap value" as claimed.

"A claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. For at least these reasons, the rejection of claim 18 based on Tucker should be reconsidered and withdrawn.

Independent claim 31 recites:

A DLD system, comprising:
means for diffracting light based on an actual gap distance;
means for converting detected light values to assumed gap values;
means for comparing said assumed gap values to designer-specified gap values; and
means for adjusting said actual gap distance to minimize the distance between said assumed gap values and said designer-specified gap values.
(emphasis added).

As demonstrated above, Tucker clearly fails to teach or suggest a system that includes "means for converting modulated light to an assumed gap value." The Tucker system never produces an actual value for the gap between opposing plates of the optical device and includes no means for doing so. Tucker further fails to teach or suggest "means for comparing said assumed gap value to a designer-specified gap value." The Tucker system does not teach or suggest a designer-specified *value* for the gap between the opposing plates or a means of comparing such a *value* to an assumed gap value as claimed.

Again, "[a] claim is anticipated [under 35 U.S.C. § 102] only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). See M.P.E.P. § 2131. For at least these reasons, the rejection of claim 31 based on Tucker should be reconsidered and withdrawn.

Conclusion:

For the foregoing reasons, the present application is thought to be clearly in condition for allowance. Accordingly, favorable reconsideration of the application in light of these remarks is courteously solicited. If the Examiner has any comments or suggestions which could place this application in even better form, the Examiner is requested to telephone the undersigned attorney at the number listed below.

Respectfully submitted,

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I hereby certify that this correspondence is being transmitted to the Patent and Trademark Office facsimile number **571-273-8300** on **September 6, 2006**. Number of Pages: **18**

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